4002

SUPREME COURT OF THE UNITED STATES.

No. 211.

JOHN CAMPBELL, WILLIAM ELLISON, GEORGE STEECE, AND HIRAM CAMPBELL, PLAINTIFFS IN ERROR,

vs.

JOHN DOE, EX. DEM. THE TRUSTEES AND TREASURER OF THE ORIGINAL SURVEYED TOWNSHIP No. ONE, IN RANGE No. 19, OF UNITED STATES LANDS IN CHILICOTHE DISTRICT.

IN ERROR TO THE SUPREME COURT OF THE STATE OF OHIO, WITHIN AND FOR THE COUNTY OF LAWRENCE.

INDEX.

	Original.	Print.
Writ of error to court of common pleas	1	2
Citation and sheriff's return	2	3
Transcript of proceedings in court of common pleas	3	4
Declaration and notice	3	4
Plea and consent rule	4	5
Amended declaration	4	6
Defendants admitted, and plea	5	7
Verdict of jury	5	7
Motion and reasons for new trial	6	7
Agreed statement of facts	7	8
Judgment of court of common pleas	24	20
Clerk's certificate	24	21
Assignment of errors	25	21
Joinder in error	25	21
Order of court	25	22
Judgment of supreme court	26	22
Clerk's certificate	27	22
Writ of error allowed	28	23
Writ of error to Supreme Court	29	23
Citation and service	30	24
Assignment of errors	32	25

GIBBON, Printer.

The State of Ohio, Lawrence county supreme court, April term, 1848.

JOHN DOE, ex. dem. Trustees and Treasurer of O. S. T. 1, R. 19,
vs.
JOHN CAMPBELL et al. } Error.

Pleas before the honorable Nathaniel C. Reed and Edward Avery, judges of the supreme court of the State of Ohio, within and for the county of Lawrence, at the court-house in Burlington, on the seventeenth day of April, A. D. 1848, and in the year of this State the forty-sixth.

Be it remembered, that heretofore, to wit, on the tenth day of November, in the year of our Lord one thousand eight hundred and forty-seven, the said plaintiff in error, by his counsel, filed in the clerk's office of our supreme court his præcipe for a writ of error, in the words and figures following, to wit:

Præcipe for writ.

THE LESSEE of Treasurer, &c., of O. S. Township No. 1, R. 19,
vs.
JOHN CAMPBELL et al.

In ejectment. Judgment for the defendants in Lawrence common pleas.

The clerk of the supreme court of Lawrence, Ohio, will please issue the writs of error and citation in this cause, returnable to the next term of the supreme court of said Lawrence county, dated November 10, 1847.

VINTON & BYINGTON,
Atty's for Plaintiff.

Bond.

(Not found among the files.)

And afterwards, to wit, on the 4th day of April, in the year of our Lord one thousand eight hundred and forty-eight, our writ of error and citation issued from the clerk's office of the said supreme court, in the words and figures following, to wit:

Writ of error.

THE STATE OF OHIO,
Lawrence county, ss.

To the judges of the court of common pleas, within and for the said county, greeting:

Because in the record and proceedings, and also in the rendition of judgment in a certain action of ejectment, which was lately in the said

court of common pleas before you, wherein John Doe, ex demise of the Trustees and Treasurer of O. S. township one, range nineteen, was plaintiff, and John Campbell, William Ellison, George Steece, and Hiram Campbell were defendants; error has intervened as it is said, to the damage of the said John Doe, ex demise of the Trustees and Treasurer of O. S. T. 1, range 19; and we being willing that such error, if any there be, should be corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, that if judgment be thereupon given, then, without delay, you send to us, distinctly and openly, under the seal of your court, the original files and pleadings, together with a transcript of all judgments of said court, and all things concerning the same, and this writ, at the *at the* clerk's office of our said court, on the 4th day of April, A. D. 1848; so that the same being inspected, we may at the next term of our supreme court, to be holden in and for the said county of Lawrence, on the seventeenth day of April, A. D. 1848, next cause further to be done thereupon what of right, and according to the laws of the land ought to be done.

Lewis Anderson, clerk of our said supreme court, at Burington, this 4th day of April, A. D. 1848.

[L. S.] Witness, LEWIS ANDERSON, *Clerk*.

Citation.

THE STATE OF OHIO,
Lawrence county, ss.

To the sheriff of said county, greeting:

We command you, that you give notice to John Campbell, William Ellison, George Steece, and Hiram Campbell, that a writ of error has been allowed, and issued upon a judgment rendered in our court of common pleas at their November term, A. D. 1847, in an action of ejectment, wherein John Doe, ex demise of the Trustees and Treasurer of O. S. township number 1, range 19, are plaintiff, and the said John Campbell, William Ellison, George Steece, and Hiram Campbell, are defendants. And also that you cite the said John Campbell, William Ellison, George Steece, and Hiram Campbell, to appear before the judges of our supreme court at the court-house in said county, on the first day of the next term of the said supreme court, to show cause, if any there be, why the said judgment should not be reversed, and why speedy justice should not be done to the parties in that behalf; and this do as you will answer the contrary at your peril.

Lewis Anderson, clerk of the supreme court at Burlington, this 4th day of April, A. D. 1848.

[L. S.] Witness, LEWIS ANDERSON, *Clerk*.

STATE OF OHIO,
Lawrence county, ss.

The sheriff's return on said writ reads in the words and figures following, to wit:

Before me, the undersigned, personally appeared Henry Davidson, who being first duly sworn, deposes and says, that he, on the 6th day of April, A. D. 1848, left at the residence of John Campbell a true copy of the within writ, he not being at home; also, on the same day, that he left a true copy for Hiram Campbell, at the office of the Mount Vernon Furnace, with Irwin, said Hiram Campbell not being at home; and that on the same day that he read to George Steece the within writ, and delivered to him a true copy of the same; and that William Ellison is not an inhabitant of Lawrence county.

HENRY DAVIDSON.

Sworn to and subscribed before me, this 10th day of April, A. D. 1848.

J. M. CAMP, Jr., *deputy for*
LEWIS ANDERSON, *Clerk*.

Transcript of judgments and original files and pleadings.

The original files and pleadings, together with a transcript of the judgments of the court of common pleas, and the assignment of errors, and prayer for reversal returned with the foregoing writ of error by the clerk of the court of common pleas for Lawrence county, reads in the words and figures following, to wit:

Be it remembered, that heretofore, to wit, on the 26th day of June, A. D. 1844, came the plaintiffs by their attorneys, and filed their declaration against the defendants, in the words and figures following, to wit:

Declaration.

THE STATE OF OHIO, *Lawrence county, ss.*

Court of common pleas, of the June term, A. D. 1844.

John Doe complains of Richard Roe, for that the trustees and treasurer of the original surveyed township numbered one, (1,) in range numbered nineteen, (19,) of United States lands, in the Chilicothe land district, on the first day of October, A. D. 1839, at the county aforesaid, had demised to the said John the following lands and tenements, to wit, the southeast quarter of section numbered fifteen, (15,) in township numbered three, (3,) of range numbered eighteen, (18,) in the said Chilicothe land district; and also one hundred and sixty acres of arable land, one hundred and sixty acres of meadow land, one hundred and sixty acres of pasture land, one hundred and sixty acres of land covered with water, and one hundred and sixty acres of other land, with the appurtenances, situated in said county of Lawrence; to have and to hold the same to the said John Doe, from the thirtieth day of September, in the year aforesaid, for and during the term of twenty years thence

next ensuing; by virtue of which demise the said John Doe entered into the said tenements, with the appurtenances, and was possessed thereof for the term aforesaid; and the said John Doe, being so thereof possessed, the said Richard, afterwards, to wit, the second day of October, in the year aforesaid, with force and arms, entered into the said tenements with the appurtenances, and ejected the said John therefrom, and other wrongs to the said John then and there did, to his damage twenty dollars; and therefore he sues, &c., by—

ARIUS, NYE & SON,
His attorneys.

Notice.

To John Campbell, William Ellison, George Steece, Hiram Campbell, and John C. Clark.

GENTLEMEN: I am informed that you are in possession of, or claim title to, the premises in this declaration mentioned, or to some part thereof, and I being sued in this action as a casual ejector, and having no title to the said premises, do advise you to appear at the next term of the court of common pleas, within and for the county of Lawrence, State of Ohio, and make yourselves defendants in my stead, otherwise judgment will then be entered against me by default, and you will be turned out of possession. Dated June 12th, 1844.

RICHARD ROE.

Continued, G. O.

And afterwards, at the June term, A. D. 1844, this cause was continued by the general order of the court.

Continued.

And afterwards, to wit, at the October term, A. D. 1844, plea and consent rule filed and continued.

Plea and consent rule.

Plea and consent rule of defendants are in the words and figures following, to wit:

John Campbell, William Ellison, George Steece, and H. Campbell, ats. Doe ex de. Town. No. 1, range No. 19, and of the State of Ohio, in ejectment.

And, on motion to the court, John Campbell, William Ellison, George Steece, and Hiram Campbell, are admitted to defend in this cause; and thereupon the said John Campbell, Hiram Campbell, William Ellison, and George Steece admit the lease, entry, and ouster in said declaration alleged, and that they are in possession of the said southeast quarter of said section No. 15, in said town. No. 3, of range 18, in said declaration demanded, and for plea say, that they are not guilty in the said grievances complained of in said declaration, and of this they put themselves upon the country; and the said plaintiff doth the like.

SIMEON NASH,
Att'y for Defendants.

Continued.

And afterwards, to wit, at the April term, A. D. 1845, this cause is continued.

Continued.

And afterwards, to wit, at the July term, A. D. 1845, this cause is continued.

Continued.

And afterwards, at the October term, A. D. 1845, this cause is continued at plaintiff's costs, to be paid in 30 days.

Continued.

And afterwards, to wit, at the April term, A. D. 1846, this cause is continued.

Continued.

And afterwards, to wit, at the July term, A. D. 1846, this cause is continued.

Amended nar. filed and continued.

And afterwards, to wit, at the October term, A. D. 1846, on motion, leave to amend nar.; amended nar. filed and continued.

Nar.

JOHN DOE ex dem. Trustees and Treasurer, &c.,
vs.
JOHN CAMPBELL et al.

In law, common pleas.

And now comes the said plaintiff, and by leave of the court amended his declaration, and complains for that whereas, also, the State of Ohio, on the first day of October, 1839, at the county aforesaid, had demised to the said John Doe the following other lands and tenements, to wit, the southeast quarter of section numbered fifteen, in township numbered three, of range numbered eighteen, in the said Chilicothe land district, with the appurtenances, situated in said county of Lawrence, to have and to hold the said last named lands and tenements with the appurtenances, from the said last named day for and during the term of twenty years thence next ensuing; by virtue of which last named demise, the said John Doe entered into the last named lands and tenements, and was thereof possessed for the term last aforesaid. By—

NYE & BYINGTON,
Plaintiff's attorneys.

And afterwards, to wit, on the 23rd day of April, in the year of our Lord one thousand eight hundred and forty-eight, the said defendants,

by their att'ys, refiled their plea and consent rule, to the amended declaration of the plaintiff herein against them, in the words and figures following, to wit:

Plea.

JOHN CAMPBELL, William Ellison, *and* George Steece & Hiram Campbell, ats. / DOE EX DE. TOWNSHIP No. 1, Range No. 19, and of the State of Ohio. } In ejectment.

And "on motion to the court, John Campbell, William Ellison, George Steece, & Hiram Campbell, are admitted to defend in this cause, and thereupon the said John Campbell, William Ellison, George Steece, & Hiram Campbell, admit the lease, entry, and ouster in said declaration alleged, and that they are in possession of the said south east quarter of said section No. 15, in said town. No. 3, of range 18, in said declaration demanded, and for plea say, that they are not guilty in the said grievances complained of in the said declaration, and of this they put themselves upon the country; and the said plaintiff doth the like.

SIMEON NASH,
Att'y for Def'ts.

Trial.

And afterwards, to wit, on the 23rd day of April, and of the term of April, A. D. 1847, "came the parties, by their attorneys, and thereupon came a jury, to wit: Isaiah Crawford, James H. Drury, Hiram D. Campbell, Thomas C. Tagg, Andrew P. Rouns, jurors of the regular pannel, and Charles Worthington, James Corn, Jonas S. Roadarmour, Rolen Brammer, Constantine Hanley, Thomas Neale, and William Jones Talesman, who being duly elected, tried, and sworn the truth to speak upon the issue joined between the parties, after hearing the evidence adduced, and argument of counsel thereupon, retired to their chamber. And afterwards, to wit, on the 24th day of April, A. D. 1847, the jury empannelled in this cause on yesterday, this day came into court, and delivered their verdict, and upon their oaths do say, that the defendants are guilty of the trespasses and ejectment in manner and form as the plaintiff hath declared against them, and they assess the plaintiff's damages, by reason of the premises, to one cent; and the said defendants, by their attorneys, filed their motion for a new trial herein.

Motion.

JOHN CAMPBELL & others ats. / DOE EX DE. Trustees T. 1, R. 19 & others. } In ejectment.

And the said defendants now come, and move the court here for a new trial in this cause, for the following reasons, to wit: 1st. The ver-

dict is against the evidence in the case. 2nd. The verdict is contrary to the charge of the court. 3rd. The court erred in admitting the letters and the proceedings of the commissioners of Lawrence county to be given in evidence.

P. R. MOORE & NASH & COOMBS,
Att'ys for defendants.

"And afterwards, to wit, on the day and year last aforesaid, came the parties, by their attorneys, and thereupon this cause came on to be heard, upon the motion of the said defendants, herein before filed, for a new trial; which, being heard, is sustained, and it is ordered that a new trial be granted said defendants, upon their paying the costs that have accrued on the trial."

Cont'd on motion.

And afterwards, to wit, on the 14th day of July, and of the term of July, A. D. 1847, on motion of the plaintiffs, by their attorneys, this cause is continued at their costs, of the present term.

The agreed statement of facts, and the several papers mentioned therein, which were, by the parties, submitted to the court on the trial of this cause, are in the words and figures following, to wit:

Agreed statement of facts.

JOHN DOE, ex demise the Trustees and Treasurer of the original surveyed township No. 1, range No. 19, of the Chilicothe land district,
vs.
RICHARD ROE, with notice to John Campbell and others. } b

Action of ejectment in Lawrence Com. Pleas, Ohio.

The parties in this suit, by their counsel, submit the case to the decision of the court, upon the following agreed statement of facts, viz: That the original surveyed fractional township No. 1, range No. 19, of the Chilicothe land district, under and by virtue of the act of Congress passed on the 20th of May, A. D. 1826, entitled "an act to appropriate lands for the support of schools in certain townships, and fractional townships, not before provided for," (the said township No. 1, range No. 19,) was entitled to one hundred and sixty acres of land for the support of schools therein. That on the 24th of May, A. D. 1826, the commissioners of the Gen'l Land office issued a circular, addressed to the registers of the several land offices in the United States, of which the paper hereto annexed, marked No. 1, is a true copy, one of which circulars was by him then transmitted to the register of the Chilicothe land district. That on receipt of said circular by said register, he addressed a letter to the commissioners of the county of Lawrence, in the State of Ohio, within which county the said township

No. 1, range No. 19, is situated, requesting them to make, and forward to him, a selection of the lands appropriated by that act, for the fractional townships within said county, for the purpose of being by him transmitted to the General Land office, as selections under said act. That thereupon, on the receipt of said letter of said register by them, the board of county commissioners for said county of Lawrence, appointed and employed an agent to select a tract of land for said township No. 1, range No. 19, who proceeded to discharge that duty, and was paid by them for his services. That said agent, so appointed and employed, after making a careful exploration of the lands of the United States, in said Chilicothe district, which were then unsold therein, and subject to entry at private sale, chose and selected the southeast quarter of section No. 15, township No. 3, range No. 18, as the school land for said township No. 1, range No. 19, and returned the same to said board of county commissioners. The said quarter section, so selected, contains one hundred and sixty acres of land, situate in said county of Lawrence, and is the land now in controversy in this suit. And thereupon, on return of said land to them so selected by said agent, the said commissioners for said county of Lawrence, in their said capacity of commissioners, on the 19th of August, A. D. 1826, addressed a letter to the register of the said Chilicothe land district, advising him of the selection aforesaid, a true copy of which letter is hereto annexed, (marked No. 2,) which said letter was, at the date thereof, transmitted to the register of said land office, the original of which still remains on file in said land office.

That some time between the receipt by said register of said last named letter, and the 23rd of October, A. D. 1828, an abstract or list of lands selected for schools in said Chilicothe land district, under the aforesaid act of Congress, was transmitted by said register to the Commissioner of the General Land office, at Washington city; which said list, so transmitted, embraced the said southeast quarter of section No. 15, township No. 3, range No. 18, as the tract of land selected for said fractional township No. 1, R. 19. On examination at the land office of the list of lands so returned for said Chilicothe district, it was found that, for some townships, a greater quantity of school land had been selected than they were, by said law, entitled to, and that for some a less quantity had been returned than they were entitled to; and thereupon the Commissioner of the Gen'l Land office, by letter bearing date on the 23rd of October, A. D. 1828, returned the said list to said register, with instructions to make the necessary corrections, and return the same, when so corrected, to the said General Land office. In the said original list, the quantity of land returned for the said fractional township No. 1, range No. 19, was correct, and needed no correction.

The register of said land office having made the necessary corrections of said list on the 8th of June, A. D. 1831, and the *and the* 4th of August, A. D. 1831, reported the corrected selection for said land district to the commissioner of the General Land office, in which last men-

tioned reports the said quarter section, originally selected for township No. 1, range No. 19, was returned without alteration. On the 30th of August, A. D. 1832, the then Commissioner of the General Land office addressed a circular to the registers and receivers of the several land offices in the United States on the subject of said school lands granted by said act on the 20th of May, A. D. 1826, which was forwarded at that time to the register and receiver of the said Chilicothe land district. A true copy of which, marked (No. 3,) is hereto annexed. In that circular certain general [rules] were presented for the government of said land officers, one of which was in these words, viz: "The quantity of school land selected for a township is to be located within the limits of such township; provided a sufficient quantity of good land exists therein. If you are satisfied that a sufficient quantity of good land cannot be found therein, the selection is to be made in the nearest adjacent township wherein good land exists." The said quarter section so as aforesaid selected for said township No. 1, range No. 19, was not within that township, nor was there good land therein from which to select it, nor was it in the nearest adjacent township, but in a township adjoining to the nearest adjacent township. That at that time there was unsold land in a township adjoining said tractional township No. 1, R. 19, out of which the school land for said township No. 1, R. 19, might have been selected; but said unsold land, in said adjoining township, was of much less value than the selection actually made and returned as aforesaid, which contains valuable mines both of iron ore and stone coal, and immediately adjoining to which a large furnace for the manufacture of iron has since been erected and put into operation by the defendants. That the proprietors of said furnace, of which Robert Hamilton, hereinafter named, was one, had knowledge of the fact that said quarter section in controversy had been selected as aforesaid, as the school land for said township No. 1, R. 19, under said act of Congress; that prior to the entry hereinafter named, the said Robert Hamilton had applied to the trustees of said township to purchase said land of them, which was declined. That he had also applied to the land office at Chilicothe to enter said land, where he was informed that it had been selected for school lands, and on that account withheld from sale; that the register of said Chilicothe land office on the 7th of March, A. D. 1833, addressed a letter to the then Commissioner of the General Land Office, a copy of which, (marked No. 4,) is hereunto annexed. That the Commissioner of the General Land office, on the 19th of March, A. D. 1833, addressed a letter to the register of the said Chilicothe land office, in reply to the last named letter. A true copy of said letter of the 19th of March, 1833, is hereto annexed, marked (No. 5.) That thereupon, the said Robert Hamilton, for himself and the other defendants to this suit, with the assent of said register, on the 8th of April, A. D. 1833, entered and paid for said quarter section of land, now in controversy, and took from the register of said land office a certificate of purchase in his own name, but for the joint benefit of himself and the defendants in this suit. A copy of which certificate of

purchase, marked No. 6, is hereto annexed. The said register never selected another tract of land for said township No. 1, range No. 19, nor was any other ever selected in lieu of said quarter section; but in the year A. D. 1836, the said register again reported said quarter section for the use of schools in said township No. 1, R. 19, as hereinafter stated. The above named entry by said Robert Hamilton, coming to the knowledge of the school trustees for said fractional township No. 1, range No. 19, at their instance, complaint thereof was made to the Secretary of the Treasury of the United States, to whom the correspondence on the subject of the selection of said tract of land, then in the General Land office, with a letter to him, from the Commissioner of the General Land office, dated January 9th, 1834, was submitted for his decision thereon. A copy of which last named letter, marked No. 7., is hereto annexed. The said Secretary of the Treasury, by letter dated on the same 9th of January, 1834, (addressed to the Commissioner of the General Land office,) selected the said quarter section of land now in controversy for the support of schools in said township No. 1, range No. 19, under said act of Congress. A true copy of which last named letter, marked No. 8, is hereto annexed. On the 20th of June, A. D. 1836, the register of the land office at Chilicothe addressed a letter to the Commissioner of the General Land office, on the subject of the school lands, appropriated by said act of Congress in that land district; a copy of which, marked No. 9, is hereto annexed. To which last named letter the said Commissioner of the General Land office, on the 20th of August, A. D. 1836, addressed a reply, of that date, to the said register; a copy of which, marked No. 10, is hereto annexed. In conformity to the directions of the last named letter, the said register again reported to the said Commissioner of the General Land office, the said quarter section as selected for the support of schools in said township No. 1, range No. 19, by letter dated July 16th, 1839, which was again confirmed by the then Secretary of the Treasury, by letter addressed to the Commissioner of the General Land office, dated August 31st, 1839; after the selection, by the Secretary of the Treasury of the United States, of said quarter section, for school land as aforesaid, the said Robert Hamilton was notified thereof by the register of said Chilicothe land office, and informed that the purchase money paid by him for said quarter section of land would be refunded to him by the United States. A patent on said entry of said Robert Hamilton has never been issued, and is still withheld. If, upon the foregoing statement of fact, the court shall be of opinion and adjudge that the said entry and purchase of said quarter section of land by the said Robert Hamilton, was and is a valid and legal purchase thereof, the said selection thereof for the support of schools as aforesaid, to the contrary notwithstanding, then and in that case a judgment is to be entered up for the defendants, otherwise a judgment to be rendered for the plaintiffs.

S. F. VINTON,
LE GRAND BYINGTON,
And J. S. GEORGE,
Attorneys for plaintiffs.

SIMEON RASH,
WM. V. PECK,
And O. F. MOORE,
Attorneys for said defendants.

(*Circular*—No. 1.)

TREASURY DEPARTMENT, GENERAL LAND OFFICE,
May 24th, 1826.

SIR: An act having passed at the last session of Congress to appropriate lands for the support of schools in certain townships and fractional townships not before provided for, you are authorized and requested to cause the selections to be made for the due proportion of land to which each township and fractional township in your land district is entitled, under the provisions of that act, and forward a list of such selections, designating the township or fractional township for which they have been made, to this office, to be submitted to the Secretary of the Treasury for his approbation.

In making these selections you will observe the following rules: First. In all cases where the lands have not been offered at public sale, you will make the selection previous to the sale, and within the fractional township. Second. Where the lands have been heretofore disposed of or offered at public sale, you may make the selection either within the fractions, if there be a sufficiency of unsold lands of good quality, or of any other lands within your land district, which have been offered at public sale. Third. In all cases where the lands have been offered at public sale, and where there are persons duly authorized by the State or inhabitants of a township to take charge of the school lands, it would be proper to permit such persons to make the selections, provided it be done in a reasonable time.

With great respect, your obedient servant,
(Signed) GEO. GRAHAM.

To REGISTER of the land office,
at

GENERAL LAND OFFICE,
February 27th, 1845.

I, Thomas H. Blake, Commissioner of the General Land office, do hereby certify, that the foregoing is truly copied from a copy of a printed circular in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Wash-
[L. S.] ington, on the day and year above written.

THOS. H. BLAKE,
Commissioner of the General Land office.

(No. 2.)

LAND OFFICE AT CHILICOTHE,
June 8th, 1831.

SIR: Enclosed you will receive a list of the lands selected for school purposes, for certain fractional townships in this district. The list contains all the selections which have as yet been correctly made. The remainder will be reported so soon as the selections are made.

I am, very respectfully, sir, your ob't serv't,
THOMAS SCOTT.

Honorable ELIJAH HAYWARD,
Commissioner of the General Land office, Washington city.

LAND OFFICE AT CHILICOTHE,
August 4th, 1831.

SIR: Enclosed you will receive a return of additional selections, made for school purposes, for certain factional townships in this district.

I am, very respectfully, sir, your ob't. serv't.,
THOMAS SCOTT.

Honorable ELIJAH HAYWARD,
Commissioner of the General Land office, Washington city.

GENERAL LAND OFFICE,
February 27th, 1845.

I, Thomas H. Blake, Commissioner of the General Land office, do hereby certify, that the foregoing are true copies, from original letters on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Wash-
[L. S.] ington, on the day and year above written.
THOS. H. BLAKE, *Commissioner.*

Circular to Registers and Receivers of United States land offices.

(No. 3.)

GENERAL LAND OFFICE,
August 30th, 1832.

GENTLEMEN: The act of Congress, passed on the 20th May, 1826, entitled "an act to appropriate lands for the support of schools in certain townships and fractional townships not before provided for," authorizes the Secretary of the Treasury to make the intended selections on the following principles, viz: For each township or fractional township, containing a greater quantity of land than three quarters of an entire township, (that is to say, more than 17,280 acres,) one section is to be reserved. For each fractional township containing a greater quantity of land than one half, and not more than three quarters of a township,

(that is to say, more than 11,520 acres, and less than 17,280 acres,) three quarters of a section are to be observed.

For each fractional township containing a greater quantity of land than one quarter, and not more than one half of a township, (that is to say, more than 5,760 acres, and not more than 11,520 acres, a half section is to be reserved.

For each fractional township containing a greater quantity of land than an entire section, and not more than one quarter of a township, (that is to say, more than 640 acres, and not more than 5,760 acres,) one quarter section is to be reserved. In order to effect the intentions of this act, a circular letter was addressed from this office, on the 24th May, 1826, to the registers and receivers of the respective land districts, requiring them to make a report of such lands as they recommended to be reserved for the object, but as that circular was not accompanied by a prescribed firm for reports, there has been a diversity of forms adopted at the different offices.

Herewith is transmitted a supply of printed forms, agreeably to which you are requested to make your reports. As these forms are designed to secure uniformity in all the proceedings under the law, both past and future, you are requested first to report to this office all the selections under the law, which have hitherto been reported from your district, of the approval of which you have been advised by this office, and also those heretofore recommended, which have not yet been sanctioned.

You are therefore requested to embrace in one report, to be marked No. 1, all the selections recommended up to the date of such report, discriminating those selections, of the approval of which you have been notified by this office, by a reference to the letter advising you of their approval.

The Secretary of the Treasury directs, that you bear in mind that no selections are contemplated to be made in those cases where section No. 16 is entirely or partially interfered with by private confirmed claims or donations. [Repealed, see circular of 17 May, 1844.]

The following general rules are prescribed for your government:

First. Where the lands have not been offered at public sale, the selections are to be made prior to the sale. The school committees, trustees, or other authority having official cognizance over the school lands, may be permitted to recommend the selections. To enable them to do so, it may be proper that you give public notice to those authorities, that on or prior to a certain day, which you will appoint, recommendations will be received from them of school selections for certain townships, which townships it will be necessary specially to designate in your notice. It is to be borne in mind, however, that no expense whatever will be incurred in the publication of such notices. If the school authorities should fail to make any recommendations you will report your own selections.

Second. The quantity of school land selected for a township is to be located within the limits of such township, provided a sufficient quan-

tity of good land exists therein. If you are satisfied that a sufficient quantity of good land cannot be found therein, the selection is to be made in the nearest adjacent township wherein good land exists.

Third. Where a portion of the section No. 16, exists in a township, the balance of the quantity to which the township is entitled, under the act of 20th May, 1826, is to be selected.

Fourth. The selections of a section, three quarters of a section, or half section, for any one township, are to be made in one body of land, if practicable; if not, in separate quarter sections. A less quantity than one quarter section is not to be taken. Fractional sections are not to be excluded, except in cases where a portion of the section No. 16 exists in the township, and a selection has to be made of the balance of the quantity of land to which such township is entitled; and where the quantity cannot be located on a quarter or half quarter section, in such cases only may fractional sections or parts of fractional sections be taken, according to the legal subdivisions, to make up the deficiency in quantity, as nearly as practicable.

Fifth. Fractional townships created by Indian reservations, are not to be understood as coming within the meaning of the act, as where the township is completed, it will then have its proper school lands.

Sixth. You will be careful to note, by a pencil mark in your tract-book, and on the plat of the townships, the lands recommended to be reserved under the act, and withhold them from sale until you are officially advised either of their approval or rejection. When advised of the approval of such selections, you will note, in ink, the fact of the reservation, stating the object thus: In the tract-book say, "Reserved for schools under act of 20th May, 1826, per letter of , from the Commissioner of the General Land office." On the plat say "School lands." In case of the rejection of a proposed selection, you will not fail to obliterate the pencil marks on the tract-book and plat.

Seventh. You will not fail to retain a copy of the report, or reports, rendered to this office in the printed forms; and, when advised of the approval, you are required to note the fact thereon, and refer to the date of the letter communicating such advice.

I am, respectfully, gentlemen, your obedient servant,

To the REGISTER and RECEIVER
Of the land office at .

(4.)

LAND OFFICE at CHILICOTHE,
March 7th, 1833.

SIR: On the 8th of June, 1831, and on the 4th of August, 1831, I reported to your office the selections which had been recommended for school purposes under the act of Congress 20th of May, 1826. Some of the selections then reported were half-quarter sections, and others did not lie either in the township or in the nearest adjacent township,

where good land exists; which are not in accordance with the general rules laid down in your circular of 30th August, 1832. I have withheld from sale all the lands selected, which were embraced in my two reports. You will therefore confer a favor by answering the following interrogations:

1st. Does the fact of my having reported them to your office take them out of the general rule prescribed for my government; and, if not; 2nd, shall I consider all the selections heretofore made, and have them made in exact conformity to the instructions?

Very respectfully, sir, your obedient servant,

THOMAS SCOTT.

Honorable ELIJAH HAYWOOD,
Commissioner of the General Land office, Washington city.

GENERAL LAND OFFICE,
February 27th, 1845.

I, Thomas H. Blake, Commissioner of the General Land office, do hereby certify, that page 1 of this sheet exhibits a true copy from an original letter on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of [L. S.] Washington, on the day and year above written.

THO. H. BLAKE,
Commissioner of the General Land office.

(No. 5.)

GENERAL LAND OFFICE,
19*th March*, 1833.

SIR: In reply to your letter of the 7th inst., on the subject of the school lands selected by you in 1831, I have to state that, as there has been no action of the department on these selections, you are at liberty to withdraw them and select other lands in their stead, in conformity to my circular of the 30th August, 1832, making your return on the printed form which has been furnished you. The lists of lands heretofore selected and forwarded in your letters of the 8th June and 4th August, 1831, are now returned

I am, &c.,

ELIJAH HAYWOOD.

THOMAS SCOTT, esq.,
Register, Chilicothe, Ohio.

GENERAL LAND OFFICE,
February 27th, 1845.

I, Thomas H. Blake, Commissioner of the General Land office, do hereby certify, that the foregoing is truly copied from *from* the record of the original letter in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written. [L. S.]

THO. H. BLAKE,
Commissioner of the General Land office.

(No. 6.)

No. 3124. LAND OFFICE AT CHILICOTHE,
April 8th, 1833.

It is hereby certified, that, in pursuance of law, Robert Hamilton, of Lawrence county, Ohio, on this day purchased of the register of this office the lot, or southeast quarter of section number fifteen, of township No. 3, in range number eighteen, containing one hundred and sixty acres, at the rate of one dollar and twenty-five cents per acre, amounting to $200 00, for which the said Robert Hamilton has made payment in full, as required by law. Now, therefore, be it known, that on presentation of this certificate to the Commissioner of the General Land office, the said Robert Hamilton shall be entitled to receive a patent for the lot above described. THOMAS SCOTT, *Register.*

GENERAL LAND OFFICE,
February 27th, 1845.

I, Thomas H. Blake, Commissioner of the General Land office, do hereby certify, that the foregoing is a true copy of certificate of purchase, numbered 3124, and issued at the Chilicothe land office, now on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written. [L. S.]

THO. H. BLAKE, *Commissioner.*

(No. 7.)

GENERAL LAND OFFICE,
9th January, 1834.

SIR: Under the provisions of the act of Congress of the 20th May, 1826, (Land Laws, p. 912,) entitled "An act to appropriate lands for the support of schools in certain townships and fractional townships not before provided for," I beg leave to recommend for your approval the selection of the following tracts in the Chilicothe district, viz: N. E. ¼ of sect. 22, T. 2, R. 17, containing 173 acres, as school lands for township 1, R. 17; S. E. ¼ of sec. 15, T. 3, R. 18, containing 160 acres, as school lands for T. 1, R. 19; and the E. ½ of sec. 12, T. 2, R. 19, containing 320 acres, as school lands for T. 2, R. 19.

I am, &c., E. HAYWARD.

Hon. R. B. TANEY,
Secretary of the Treasury.

General Land office,
February 27th, 1845.

I, Thomas H. Blake, Commissioner of the General Land office, do hereby certify, that the above is a true copy from the record of the original letter in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[L. S.]

THO. H. BLAKE, *Commissioner*.

(No. 8.)

Treasury Department, Register's office,
February 22d, 1845.

Pursuant to the act of Congress of March 3d, 1797, entitled "An act to provide more effectually for the settlement of accounts between the United States and receivers of public money," I, Thomas L. Smith, register of the Treasury Department, do hereby certify, that the annexed letter is a true copy from the records of the said Department.

T. L. SMITH, *Register*.

Be it remembered, that Thomas L. Smith, esq., who certified the annexed transcript, is now, and was, at the time of doing so, register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof, I, George M. Bibb, Secretary of the Treasury of the United States, have hereunto subscribed my name, and caused to be affixed the seal of this Department, at the city of Washington, this twenty-second day of February, in the year of our Lord 1845.

[L. S.]

GEO. M. BIBB,
Secretary of the Treasury.

(Copy.)

Treasury Department, *Jan.* 9, 1834.

Sir: Under the authority given in the act of Congress, approved 26th May, 1826, and agreeable to the recommendation contained in your letter of that date, I select as school lands for township 1, range 17, in the Chilicothe district, the northeast quarter of section 22, township 2, range 17, containing 173 acres; for township 1, range 19, in the same district, the southeast quarter of section 15, township 3, range 18, containing 160 acres; and for township 2, range 19, in same district, the east half of section 12, township 2, range 19, containing 320 acres.

I am, respectfully, your obedient servant,

R. B. TANEY,
Secretary of the Treasury.

Commissioner of the General Land office.

(No. 9.)

LAND OFFICE AT CHILICOTHE,
June 20th, 1836.

SIR: Application has this day been made for the purchase of part of a quarter section of land heretofore selected for school purposes in a fractional township, in Lawrence county; this quarter section, with others selected for school purposes, were by me reported to the General Land office, but the report was rejected and returned with special instructions. These instructions I communicated to the commissioners of those counties within this district, entitled to school lands under the act of Congress, with a request that they would make, or cause to be made, the selections of land to which their respective counties were entitled. To this request no answer has been returned by the agents of any one of those counties; I am therefore really at a loss to know what to do with the lands described in the rejected report. If the selections be not soon made, the benefits intended by the act will be almost entirely frustrated. I therefore respectfully request your particular attention to this subject, so that I may know how to shape my course relative to these matters.

Very respectfully, sir, your obedient servant,

THOMAS SCOTT.

HON. ETHAN A. BROWN,
Commissioner of the General Land office,
Washington city.

GENERAL LAND OFFICE, *Feb. 27th*, 1845.

I, Thomas H. Blake, Commissioner of the General Land office, do hereby certify, that the foregoing is truly copied from an original letter in this office. In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[L. S.]

THO. H. BLAKE,
Commissioner.

(10.)

GENERAL LAND OFFICE, *20th Aug.*, 1836.

SIR: Your letter of the 20th June last, on the subject of school lands for fractional townships in your district, has been received. The school commissioners of those counties in your district, entitled to school lands under the act of May, 1826, having failed to make, or cause to be made, the selections to which their counties were respectively entitled, I have to request that you give public notice in some newspaper printed in Chillicothe, that on a given day, provided selections are not previously reported by the school commissioners, you will proceed to make them yourself from the best information in your possession for all the coun-

ties within the limits of your district that may be entitled to them. You will cause a copy of the notice to be forwarded to the proper authorities in each county. On the day appointed you will proceed to prepare your list of lands selected in the manner and form prescribed by the circular letter of the 30th August, 1832, and forward the same to this office immediately thereafter, in order that, if found correct, it may be submitted to the Secretary of the Treasury for his approval. In those cases where selections have been heretofore reported by your predecessor, and no exception has been taken to them, or the substitution of other lands requested in lieu thereof by the school commissioners, you are directed to include them in your list, subject to corrections as to quantities pointed out in the Commissioner's letter of the 23d of October, 1828, and the scale prescribed by the act of May, 1826.

The change contemplated by you in the school lands for certain fractional townships in Lawrence county, not being approved by the citizens, and having been made the subject of a memorial to Congress, you are particularly directed, unless otherwise requested by the school commissioners, to return the three tracts originally selected, viz: the northeast quarter of section 22, township 2, range 17; southeast quarter 15, 3, 18, and the east half of section 12, township 2, range 19; in which event you will notify the purchaser of the southeast quarter, 15, 3, 18, per certificate 3,124, that the entry of that tract being subsequent to its selection for school purposes, cannot be recognised by this office, and that orders will be given for refunding the purchase money.

I am, &c.,

ETHAN A. BROWN,
Commissioner.

Register, Chilicothe, Ohio.

GENERAL LAND OFFICE, *Feb.* 27, 1845.

I, Thomas H. Blake, Commissioner of the General Land office, do hereby certify, that the foregoing on papers 1 and 2 of this sheet, is a true copy from the record of the original letter in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of [L. S.] Washington, on the day and year above written.

THO. H. BLAKE,
Commissioner of the General Land office.

Judgment.

And now at this time, to wit, on the 4th day of Nov., and of the term of November, A. D. 1847, this cause came on to be heard upon the agreed statement of facts submitted by the parties in this cause, and was argued by counsel; on consideration whereof, and the court being equally divided in opinion as to whether the entry of the premises by the said R. Hamilton was legal, and whether the title to said premises, by the action of the Secretary of the Treasury, did become vested in the lessors of the plaintiff. The court therefore find that the said defendants are not guilty

of the ejectment and trespass in manner and form as the said plaintiff hath thereof declared against them. It is therefore considered by the court, that the said defendants go hence thereof without day, and recover of the lessors of the plaintiff their costs in and about this suit in this behalf expended, taxed to fourteen dollars and fifty-four and an half cents.

STATE OF OHIO, *Lawrence county, ss.*

I, Lewis Anderson, clerk of the court of common pleas within and for the said county of Lawrence, do hereby certify, that the foregoing are the docket and journal entries, including the final judgment of the court, together with the original pleadings and papers, in their proper order, as filed and entered in said court.

In testimony whereof I have hereunto subscribed my name, and affixed the seal of said court, this 4th day of April, A. D. 1848. [L. S.]

LEWIS ANDERSON, *Clerk*,
Per J. M. CAMP, Jr., *Deputy*.

Assignment of errors.

THE LESSEE of the Trustees, &c., of O. S. Township No. 1, R. 19,
vs.
JOHN CAMPBELL et al.

In ejectment.

Judgment for the defendants in the court of common pleas of Lawrence county, Ohio.

And now comes the said plaintiff and says, that there is error in the record and proceedings aforesaid, in this, to wit, that said court of common pleas gave *gave* judgment for the said defendants, when by the laws of the land judgment should have been given for the said plaintiff; wherefore, the said plaintiff prays that said judgment of the said court of common pleas may be revereed, set aside, and held for naught, and that the plaintiff may be restored, &c.

By VINTON AND BYINGTON,
November 10th, 1847. *For Plaintiff.*

Joinder.

JOHN CAMPBELL and others
ats.
TRUSTEES O. S. T. 1, R. 19.

And the said defendants, by Nash and Moore, their attorneys, now come and say, that there is no error in the record and proceedings aforesaid, and prays that the same may be affirmed, and they dismissed with their costs.

SIMEON NASH AND O. F. MOORE,
Attorneys.

Order.

And now at this time, to wit, on the 17th day of April, and of the term of April, in the year of our Lord one thousand eight hundred and forty-eight, and before the judges first herein aforesaid, the following entry was made in the case of John Doe, ex dem. of Trustees and Treasurer of township No. 1, R. 19, vs. John Campbell, William Ellison, George Steece, and Hiram Campbell. Error. This cause is reserved to be tried in the court in bank at its next term, to be held at Columbus.

Supreme court of the State of Ohio in bank, of the term of December, A. D. 1848.

JOHN DOE, ex dem. Trustees and Treasurer of O. S., T. 1, Range 19,
vs.
JOHN CAMPBELL et al.
} In error.

Reserved from the county of Lawrence.

This cause came on to be heard upon the original files and pleadings, and the transcript of the judgment of the court of common pleas of Lawrence county, and was argued by counsel. On consideration whereof this court is of opinion, that the said court of common pleas erred in their said judgment. Therefore, for the error aforesaid, it is ordered and adjudged, that the said judgment of the said court of common pleas be, and the same is hereby, reversed with costs, and the plaintiff in error restored to all things which he has lost by occasion of said judgment.

And thereupon the court here, according to the statute in such case made and provided, proceeding to render such judgment upon the premises, and the facts agreed upon between the parties, as ought to have been rendered by the said court of common pleas, do find that the said defendants are guilty of the trespasses and ejectments laid to their charge in manner and form as the said plaintiff hath complained against them, and do assess the damages of the said plaintiff, by reason thereof, to one cent.

Therefore, it is considered, that the said plaintiff recover against the said defendants his said terms yet to come of and in the tenements aforesaid, with the appurtenances, and also his said damages so assessed as aforesaid; together with his costs in said original action expended, taxed at dollars.

Ordered, that a special mandate be sent to the said court of common pleas to carry this judgment into execution.

Ordered, that a copy of this entry be certified to the clerk of the supreme court of Lawrence county for entry, &c.

THE STATE OF OHIO, ss.

I, Lewis Heyl, clerk of the supreme court of the State of Ohio, in

bank, certify the foregoing to be a true copy from the journal of said court of the term of December, A. D. 1848.

[L. S.] Witness my hand and the seal of said court, at Columbus, this fifteenth day of January, A. D. 1849.

LEWIS HEYL, *Clerk.*

THE STATE OF OHIO, *Lawrence county, ss.*

I, Lewis Anderson, clerk of the supreme court of the State of Ohio, within and for the said county of Lawrence, certify, that the foregoing is truly taken and copied from the complete record of the above case in my office.

Witness whereof I have hereunto subscribed my name, and affixed the seal of said court, at the court-house in Burlington, this 1st day of November, A. D. 1850.

LEWIS ANDERSON, *Clerk.*

I allow a writ of error in this case. The clerk of the circuit court make out the writ, citation, or bond and security to be given in five hundred dollars.

JOHN McLEAN,
Justice Supreme Court United States.

15th June, 1849.

I allow a writ of error on bond being given as above.

JOHN McLEAN,
Justice Supreme Court.

18th September, 1850.

This record, United States, $11 02.

SUPREME COURT OF THE UNITED STATES,
United States of America, ss.

The President of the United States of America, to the honorable the judges of the supreme court of the State of Ohio, within and for the county of Lawrence, greeting:

Because in the record and proceedings, and also in the rendition of a judgment in a plea, which is in the said Supreme Court, before you, between John Doe, ex dem. the Trustees and Treasurer of the original surveyed township number one, in range number nineteen, of the United States lands, in the Chilicothe district, was plaintiff, and John Campbell, William Ellison, George Steece, and Hiram Campbell, were defendants, a manifest error hath happened, to the great damage of the said defendants, as by their complaint appears; and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf:

You are hereby commanded, if judgment therein be given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at the city of Washington, on the first Monday in the

month of December next, in the said Supreme Court then and there to be held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court of the United States, this twenty-third day of October, in the year of our Lord one thousand eight hundred and fifty, and of the independence of the United States of America the seventy-fifth.

[L. S.]

Attest: WILLIAM MINER, *Clerk.*

THE STATE OF OHIO, *Lawrence county, ss.*

The answer of the judges of the supreme court within named.

An authenticated transcript of the record is annexed to this writ and herewith returned, as within commanded.

Witness Lewis Anderson, clerk of said supreme court, at Burlington, this 1st day of November, A. D. 1850.

[L. S.]

LEWIS ANDERSON,
Clerk sup. court, St. O., for C. of Lawrence.

THE UNITED STATES OF AMERICA,
Supreme Court of the United States.

To John Doe, ex dem. the Trustees and Treasurer of the original surveyed township number one, in range number nineteen, of the United States lands in the Chilicothe district, greeting:

Whereas John Campbell, William Ellison, George Steece, and William Campbell, obtained the allowance of our writ of error to the supreme court of the State of Ohio, within and for the county of Lawrence directed to remove into the said Supreme Court, to be holden at the city of Washington, on the first Monday in the month of December next, the record of a certain plaint, process, proceedings, and judgment in action of ejectment, wherein you, the said John Doe, ex dem. the the Trustees and Treasurer of the original surveyed township number one, in range number nineteen, of the United States lands in the Chilicothe district, in that action lately recovered against the said John Campbell, William Ellison, George Steece, and Hiram Campbell, for his said terms yet to come of and in the tenements described in the records and proceedings of said judgment in the supreme court aforesaid, together with one cent damages and costs, as by the said record in the said supreme court of the State of Ohio, within and for the county of Lawrence aforesaid, remaining appears; in which said record and proceedings, and also in the rendition of the judgment thereupon, manifest error hath intervened, as by the said John Campbell, William Ellison, George Steece, and William Campbell, we are informed, and our said writ of error granted, issued, and allowed as aforesaid, for the purpose of correcting the errors aforesaid alleged, if any there be. You are, therefore, hereby commanded and cited, to be and appear before the judges of the

said Supreme Court, at the city of Washington, at the next term of said court, to be holden on the first Monday in the month of December next, to have the errors aforesaid corrected, and the judgment of our said Supreme Court thereupon.

Witness the honorable Roger B. Taney, chief justice of the United States of America, this 23d day of October, in the year of our [SEAL.] Lord one thousand eight hundred and fifty, and of the independence of the United States of America the 75th.

JOHN McLEAN.

I served the within writ on James Rogers and Whitfield Kelly, trustees of the original surveyed township No. 1, by copy, there being no treasurer, and by personal service, November 18th, 1850.

ELIAS NIGH,
Dep'y marshal of the U. S., for the dist. of Ohio.

Marshal's fees.

2 services, each $2,	$4 00
Mileage 116 miles, at 5 c.	5 80
Paid.	$9 80

Supreme Court of the United States.

CAMPBELL, Ellison & Co.
vs.
TRUSTEES of Town. No. 1, of range No. 19, in Lawrence county, Ohio.

Error to the supreme court of Ohio, within and for the county of Lawrence.

And now come the said John Campbell, William Ellison, George Steece, and Hiram Campbell, the aforesaid plaintiffs, and say, that in the record and proceedings of the said supreme court of the State of Ohio there is error, in this, to wit:

1. That said supreme court erred in deciding that the entry of the said premises so demanded in said suit by the said Robert Hamilton, at the said land office of the United States, at Chilicothe, was null and void, and vested no equitable title in and to said premises in the said Robert Hamilton.

2. That said supreme court erred in rendering judgment on said agreed case in favor of said plaintiff in said supreme court, and against said defendants below; when said court on said agreed case ought, by the laws of the United States, to have rendered a judgment in favor of said defendants below, now plaintiffs here.

Wherefore the said plaintiffs pray that the said judgment may be reversed, and that they may be restored to all things which they have lost by reason thereof.

SIMEON NASH,
Att'y for plaintiffs.